

Karen E. Powell  
Special Assistant Attorney General  
Securities Department  
Montana State Auditor's Office  
840 Helena Ave, Helena, MT 59601  
(406)444-2040

BEFORE THE STATE AUDITOR  
AND COMMISSIONER OF SECURITIES  
HELENA, MONTANA

---

IN THE MATTER OF:	)	CASE NO. SEC 09-22-04-1381
	)	
JOHN C. QUIST;	)	CONSENT AGREEMENT
	)	AND ORDER
	)	
	)	
Respondent	)	

---

**FACTS**

1. A complaint was filed by K.B. with the Flathead County Sheriff's Office, which was referred to the Securities Department, Montana State Auditor's Office. The Department determined the following facts:

2. On August 15, 2002, Quist induced K.B., a Kalispell, Montana, resident, to invest \$6,000 in "The Project". K.B. wrote a check for the investment to John C. Quist, who personally cashed the check. In exchange, Quist provided documentation that was evidence of indebtedness to K.B. The documentation indicated The Project was an investment program with an annual rate of return.

3. Investment in The Project is a security as defined by 30-10-103(22).

4. The Project was not registered with the Department as required by statute.

5. Quist was not registered to sell securities in Montana or any other jurisdiction.

6. Quist failed to provide required disclosure to K.B. including but not limited to the following facts:

a. Quist was not registered to sell securities

b. The Project was not a registered security

- c. There was a high probability of loss of funds due to the nature of the investment
  - d. The investment was not guaranteed
- 4. The Project and/or John Quist failed to repay any funds to K.B.
- 5. On March 8, 2002, Quist induced J.B., a Kalispell Montana resident, to invest \$1000 in The Project. In exchange, Quist provided to J.B. a document that was evidence of indebtedness to J.B. The documentation indicated that The Project was an investment program with an annual rate of return.
- 6. Quist failed to provide required disclosure to J.B. including but not limited to the following facts:
  - a. Quist was not registered to sell securities
  - b. The Project was not a registered security
  - c. There was a high probability of loss of funds due to the nature of the investment
  - d. The investment was not guaranteed
- 7. The Project and/or Quist failed to repay any of the funds.
- 8. On April 23, 2001, John C. Quist induced J.B. to invest \$7,000 into Tri-West Investment Club.
- 9. Tri-West Investment Club called itself a "bank debenture trading program" which guaranteed a return of 120% per annum (10% per month).
- 10. The SEC subsequently filed an action against Tri-West Investment Club. Northern District of California federal court determined that the Tri-West Investment Club was promoted as investment club but actually traded in fictitious "prime bank" securities. The funds paid by investors actually went directly to the enrichment of the founder of the program.
- 11. The ringleaders of the Tri-West scheme were subsequently criminally prosecuted for their involvement with Tri-West Investment Club and are serving criminal sentences including prison time and disgorgement of funds received through the scheme.
- 12. Quist failed to provide disclosure to J.B. regarding, at a minimum:

- a. Quist was not registered to sell securities
- b. TriWest was not a registered security
- c. Tri-West was a prime bank scheme whereby the investor funds were not invested but instead used for personal gain.

13. John Quist was or should have been aware of the requirements of registration of securities and registration of a salesperson due to prior actions filed against him by the Securities Commissioner in Arizona.

14. The Arizona Securities Department on September 13, 1992, found that John Quist has sold unregistered securities, acted as unregistered securities salesman and performed securities fraud in violation of Arizona law. The Arizona Securities Department also recognized that a Cease and Desist Order had been filed against Quist in 1986. Judgment was filed against Quist, enjoining him from further violations of Arizona Securities laws, and order to pay restitution and damages jointly and severally with other Respondents in the amount of \$7,214,579.80.

### **CONCLUSIONS**

1. The Commissioner has jurisdiction over this matter by reason of Respondent's offer and sale of securities to persons in Montana. § 30-10-107; 30-10-201, 30-10-301, and 30-10-305, MCA.

2. Investment in the PROJECT is a security pursuant to § 30-10-103(22), MCA.

3. Investment in Tri-West is a security pursuant to § 30-10-103(22).

4. Offer or offer to sell includes "every attempt to offer to dispose of or solicitation of an offer to buy a security or interest in a security for value." § 30-10-103(15), MCA.

5. Quist is salesperson pursuant to § 30-10-103(20), MCA.

6. In connection with the above offer and sale of securities relating to The Project, Respondent violated § 30-10-301(1)(b), MCA by failing to disclose, at a minimum, the following material facts, which facts were necessary to disclose in order to make the statements made about the investment, in light of the circumstances under which they were made, not misleading:

- a. he was not registered to sell securities

- b. The Project was not a registered security
- c. there was a high probability of loss of funds due to the nature of the investment
- d. the investment was not guaranteed

7. In connection with the above offer and sale of securities relating to Tri-West Investment Club, Respondent violated § 30-10-301(1)(b), MCA by failing to disclose, at a minimum, the following material facts, which facts were necessary to disclose in order to make the statements made about the investment, in light of the circumstances under which they were made, not misleading:

- a. Quist was not registered to sell securities
- b. Tri-West Investment Club was not a registered security
- c. Tri-West Investment Club was a prime bank scheme whereby the investor funds were not invested but instead used for personal gain.

#### **CONSENT AGREEMENT**

Without admitting or denying the above allegations, Respondent John Quist hereby stipulates and consents to the following:

1. Quist shall pay a fine of \$5000.
2. Quist shall provide within 30 days of the signing of this Consent Agreement, a notarized statement of personal assets and liabilities; disclose the current financial status of any business in which he has an interest, and disclose any asset, including real and other property, that he has assigned to any other person or entity within the last five years. Financial information provided by Quist shall be considered as nonpublic investigative information.
3. For a period of not less than 10 years, Quist shall not act as an investment advisor, investment advisor representative, or securities salesperson.
4. At the request of the Department, Quist shall cooperate in any investigation or action regarding the allegations set forth in this agreement.
5. Quist shall abide by the provisions of the Securities Act of Montana.

6. Pursuant to § 30-10-309, Quist shall pay restitution to KB in the amount of \$6,000.

The Department will determine a repayment schedule for Quist within 60 days. Quist shall provide any proof of payment to the Department.

7. Pursuant to §§30-10-309, MCA, Quist shall pay restitution to JB in the amount of \$1000. The Department will determine a repayment schedule for Quist within 60 days. Quist shall provide proof of payment to the Department.

8. The fine imposed by the Department shall be offset by any restitution paid.

9. Quist shall enter into counseling for issues related to securities violations and any other matters as determined by a licensed counselor for a minimum duration of 12 months.

10. In the event that Quist fails to abide by any of the above provisions, the Department may institute the following actions:

a. a fine of \$20,000 to be fully and immediately due to this office and/or

b. void the Consent Agreement and reinstate the Cease and Desist Order and Notice of Proposed Agency Action; and/or

c. take any action previously available under its authority.

11. Quist fully and forever releases and discharges the Office of the State Auditor, the elected State Auditor and all State Auditor employees from any and all actions, claims, causes of action, demands, or expenses for damages, injuries, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising from the conduct or action of the persons and entities identified in this paragraph that have occurred on or before the date that Quist signed this Agreement.

12. Quist states that he has read the foregoing Consent Agreement and that he knows and fully understands its contents and effect. Quist acknowledges he has been advised of the following: he has the right to be represented by legal counsel and if represented by legal counsel, that his legal representation is satisfactory, that he is fully aware of his right to a hearing in this matter; he has the right to present evidence and argument to the Commissioner; and is right to appeal from an adverse determination after hearing.

13. Quist understands that by signing this Agreement, he waives those rights mentioned above in their entirety. However, in the event that any action is taken against Quist for any reason by the State of Montana or any agency of the State of Montana, he retains and has not waived all such rights and has the right to assert such rights.

14. Quist states that he understand that this Consent Agreement is part of the Commissioner's file which is public record. As a public record, it may not be sealed.

15. Quist further states that he understands that this Consent Agreement constitutes the entire agreement between the parties, there being no other promises or agreements, either express or implied.

DATED this 28<sup>th</sup> day of October, 2004.

By: John Quist  
JOHN QUIST

Subscribed and Sworn to before me on this 28<sup>th</sup> day of October, 2004.

Michelle Nause Huffel  
Notary Public for the State of Montana  
Residing at Helena  
My Commission expires March 2008

Dated this 28<sup>th</sup> day of October, 2004.

JOHN MORRISON  
State Auditor and  
Commissioner of Securities

By: Karen Powell  
Karen Powell, staff attorney  
ORDER

On the basis of the Consent Agreement, the Commissioner orders Respondent to pay a fine of \$5,000 to be offset against any restitution paid, submit financial information, pay restitution in the amount of \$7,000, and perform any other such requirements as are set forth in the Consent Agreement. The Commissioner further orders Respondent to comply with the Securities Act of Montana and the rules promulgated thereunder.

Dated this 28<sup>th</sup> day of Oct, 2004.

JOHN MORRISON, STATE AUDITOR

By: David L. Hunter